

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.11.645 pertaining to)
Whitefish River)

TO: All Concerned Persons

1. On March 13, 2014, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-406 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 434 of the 2014 Montana Administrative Register, Issue Number 5. On July 10, 2014, the commission published a notice of extension of comment period at page 1460 of the 2014 Montana Administrative Register, Issue Number 13.

2. The commission has amended ARM 12.11.645 as proposed in the original proposal notice published on March 13, 2014, page 434, Issue Number 5.

3. The commission has thoroughly considered the comments and testimony received. A summary of the comments received and the commission's responses are as follows:

Comment 1: The commission received comments stating there wasn't a need to eliminate boating on the river altogether.

Response 1: The restriction adopted by the commission will not eliminate boating on the river entirely. The restriction is only on the use of gas motors from the train trestle to the JP Bridge, a distance of approximately 3 miles.

Comment 2: The commission received comments stating the use of motorized water craft should not be allowed at any time on the Whitefish River from the lake outlet to the bridge at JP Road.

Response 2: The proposed rule language was in response to petition submitted by the City of Whitefish and did not include the river upstream of the trestle. The current no-wake regulation would still be in effect in the river upstream of the trestle to Whitefish Lake.

Comment 3: The commission received comments stating motorized access to Whitefish Lake is important to many residents who live on the river because other accesses to the lake are very congested during the summer months and there is no public access on the Whitefish River for boats and trailers except Whitefish Lake.

Response 3: Motorized access is still allowed on this stretch of river; however, it will require people to either row their boats or use electric motors to get through the area between JP Bridge and the BNSF trestle.

Comment 4: The commission received comments stating the existing no-wake rule is impossible to enforce and a no-wake rule for the entire river would be easier to enforce.

Response 4: The current no-wake regulation is enforceable.

Comment 5: The commission received comments stating the proposed restrictions would harm tourism and comments stating the proposed restriction would improve tourism.

Response 5: The commission does not believe that the restrictions will have any impact on tourism in the area.

Comment 6: One person stated they have never experienced any unsafe conditions on the river.

Response 6: Restricting use to manually powered vessels and electric motors would decrease safety concerns.

Comment 7: The commission received a comment stating the petition process established a negative precedent of one user group lobbying to restrict access for other user groups.

Response 7: Many issues brought to the commission have user groups opposing each other. The commission considers all comments submitted when making a reasoned and informed decision.

Comment 8: The commission received comments supporting the additional language "minimum operating speed necessary to progress upstream."

Response 8: The commission did not add the new language to allow for minimum speed to maintain upstream travel and adopted the language submitted in the petition.

Comment 9: The commission received comments stating the rule amendment would limit fishing and hunting opportunities.

Response 9: The rule amendments do not affect the ability to fish the river. Hunting is already illegal on this stretch of river because it is within the Whitefish city limits and it is against the law to discharge a firearm in the city limits.

Comment 10: The commission received comments stating the environment concerns of noise and pollution from gas motors exist and also comments stating they don't exist.

Response 10: The rule will decrease noise and pollution caused by gas motors by limiting usage to manually powered vessels and electric motors.

Comment 11: The commission received comments stating the rule amendments will decrease the property value of privately owned land.

Response 11: It is unknown if this amendment will affect property values.

/s/ Dan Vermillion

Dan Vermillion

Chairman

Fish and Wildlife Commission

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State December 15, 2014.